

REMARKS

The enclosed is responsive to the Examiner's Office Action mailed on February 11, 2009. At the time the Examiner mailed the Office Action, claims 1-10 were pending. By way of the present response, applicant has: 1) amended claims 1 and 4-8; 2) added no claims; and 3) canceled claims 2-3 and 9-10. Applicant has amended the claims to clarify the subject matter claimed. The claims, as amended, are supported by the specification as originally filed, e.g., at least in pages 2-4. No new matter has been added. Reconsideration of this application as amended is respectfully requested.

Claim Rejections – 35 U.S.C. § 101

Claims 1, 4 and 7-8 stand rejected under 35 U.S.C. § 101. In particular, the Examiner alleges that the claims define a signal with descriptive material. Applicant respectfully disagrees. Claims 1, 4, and 7 recite a **method** of determining acceleration of a motor vehicle. Applicant is not claiming a signal. Instead, the claims are directed to a process of obtaining and generating signals. The Examiner quotes the USPTO Interim Guidelines (Official Gazette notice of 22 November 2005), but has left out the statement "a claimed signal is clearly not a 'process' under § 101 because it is not a series of steps." (Official Gazette notice of 22 November 2005, p. 55). A process claim that recites a series of steps performed on or to a signal has been deemed allowable subject matter by the PTO. (see *In re Nijiten*, 500 F.3d 1346, 1351). Additionally, claim 8 recites a **device** for determining acceleration of a motor vehicle. Applicant has amended claim 8 to include a microprocessor to further clarify that a device, not a signal, is being claimed.

Accordingly, applicant respectfully submits that the rejection of claims 1, 4, and 7-8 under 35 U.S.C. § 101 has been overcome.

Claim Rejections – 35 U.S.C. § 112

Claim 4 stands rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. Applicant respectfully disagrees and submits that the claim language is supported by the specification as originally filed – e.g., at least in the last paragraph of page 2, which describes obtaining the net driving force. While the specification describes the summation of two forces, and the claim recites subtraction, applicant respectfully submits that the use of addition or subtraction is trivial and interchangeable depending upon whether or not a negative sign is given to the braking force – i.e., adding a negative value is the equivalent of subtracting the same, positive value.

Claim 7 stands rejected under 35 U.S.C. § 112, first paragraph, as based on a disclosure that allegedly is not enabling. Applicant has amended claim 7 to correct a typographical error. Support for the claim as amended is found at least, for example, in the third paragraph of page 3 of the specification as originally filed. Applicant, therefore, submits that the rejection of claim 7 has been overcome.

Claims 1, and 4-8 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. In particular, claims 1 and 8 stand rejected as being incomplete for omitting the essential step of “how a driving force signal is converted to an acceleration signal.” (Office Action dated 2/11/09, page 4). Applicant has amended the claims to clarify the subject matter claimed. Additionally, applicant respectfully

submits that how the operation in question is precisely carried out is not necessary: "an enablement rejection based on the grounds that a disclosed critical limitation is missing from a claim should be made only when the language of the specification makes it clear that the limitation is critical for the invention to function as intended. Broad language in the disclosure, including the abstract, omitting an allegedly critical feature, tends to rebut the argument of criticality." (MPEP § 2164.08(c)). For example, the application Newton's 2<sup>nd</sup> Law (dividing force by mass) to determine acceleration. Support for this can be found, for example, in the fourth paragraph on page 3 of the specification as originally filed. The Examiner further states that "it is not known by this office the conventional filtering means that would convert force (e.g. measured in Newtons) into units of acceleration." (Office Action dated 2/11/09, page 4). Applicant respectfully submits that calculating estimated vehicle acceleration from the net driving force and filtering are separate steps – i.e., filtering is not used convert force into acceleration.

Accordingly, applicant submits that the rejection of omitting an essential step has been overcome.

Regarding claim 5, the Examiner alleges that "wherein net driving force is supplied to an adaptive vehicle model to obtain an estimate of vehicle acceleration" is in conflict with claim 1. (Claim 5). Applicant has amended claim 1 to clarify the subject matter claimed and submits that the wherein statement further defines "calculating an estimated vehicle acceleration from the net driving force." (Claim 1). Accordingly, applicant submits that the rejection of claim 5 has been overcome.

Regarding claim 7, similar to above, applicant submits that the claim has been amended to correct a typographical error and, accordingly, the rejection has been overcome.

Claim Rejections – 35 U.S.C. § 102

Claims 1, 7, and 8 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S Patent No. 6,349,255 by Heckmann, (hereinafter "Heckmann"). Heckmann describes determining a vehicle's ground acceleration by combining signals of an acceleration sensor and the wheel rotation speed signals. In particular, Heckmann describes that the acceleration variable from the acceleration sensor is high-pass filtered. Heckmann, however, does not disclose obtaining a filtered acceleration signal by ***calculating a net driving force acting on the vehicle, calculating an estimated vehicle acceleration from the net driving force***, and high pass filtering the estimated vehicle acceleration.

Accordingly, applicant respectfully submits that the rejection of claims 1, 7, and 8 has been overcome.

Claim Rejections – 35 U.S.C. § 103

Claim 4 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Heckmann in view of U.S. Patent Publication No. 2003/0158648 by Kubota (hereinafter, "Kubota"). Applicant does not admit that Kubota is prior art and reserves the right to swear behind Kubota.

Given that claim 4 is dependent upon claim 1, and includes additional features, and that Kubota fails to remedy the shortcomings of Heckmann described

above, applicant respectfully submits that the rejection of claim 4 has been overcome for at least the reasons set forth above.

Claims 5 and 6 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Heckmann, as applied to claims 3 and 8, and in further view of U.S. Patent Publication No. 2004/0199300 by Gustafsson (hereinafter, "Gustafsson"). Applicant does not admit that Gustafsson is prior art and reserves the right to swear behind Gustafsson.

Given that claims 5 and 6 are dependent upon claim 1, and include additional features, and that Gustafsson fails to remedy the shortcomings of Heckmann described above, applicant respectfully submits that the rejection of claims 5 and 6 has been overcome for at least the reasons set forth above.

### CONCLUSION

Applicant respectfully submits that in view of the amendments and arguments set forth herein, the applicable objections and rejections have been overcome.

Applicant reserves all rights under the doctrine of equivalents.

Pursuant to 37 C.F.R. 1.136(a)(3), applicant hereby requests and authorizes the U.S. Patent and Trademark Office to (1) treat any concurrent or future reply that requires a petition for extension of time as incorporating a petition for extension of time for the appropriate length of time and (2) charge all required fees, including extension of time fees and fees under 37 C.F.R. 1.16 and 1.17, to Deposit Account No. 02-2666.

Respectfully submitted,

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